THE HON'BLE MR. JUSTICE V.V.S. RAO

THURSDAY, THE 15TH DAY OF DECEMBER, 2005

W.P.No. 26575 of 2005

Between:-

Singampalli Yerri Babu

--Petitioner

And

The District Collector, Visakhapatnam district, Visakhapatnam and three others.

--Respondents

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:O R D E R:

The father of the petitioner was assigned land ad-measuring Ac.05-19 cents in survey No. 130/2 of Madhuravada village, Visakhapatnam district vide Patta No. 771. After demise of his father, the petitioner succeeded to the property by reason of a will dated 11-08-1989 allegedly executed by his father. The petitioner further states that he is in possession of the property and raised coconut, mango, chiku, cashew and eucalyptus trees in the land. He further alleges that two days prior to the filing of the writ petition, the subordinate officials of the respondents tried to dispossess the petitioner and remove the trees in the land. The petitioner sent a representation on 11-12-2005 but did not get any response. Therefore, he filed the writ petition, *inter alia*, seeking a direction to the respondents not to interfere with his peaceful possession and enjoyment of the property.

The matter was adjourned on 13-12-2005 to enable the learned Assistant Government Pleader for Revenue (General) and the learned standing counsel for the Vishakapatnam Urban Development Authority (for short 'the VUDA') to get instructions in the matter. Today, learned Assistant Government Pleader submits that necessary action was initiated by the Mandal Revenue Officer for cancellation of the assignment given to the father of the petitioner, as he did not bring the land into cultivation and a notice was issued on 04-02-2005 to the father of the petitioner to show cause as to why assignment shall not be cancelled. The notice could not be served, as the petitioner's father is not staying in the village and thereafter further proceedings could not be completed. Learned standing counsel for the VUDA

submits that the land was handed over to the authority, free of all encumbrances. This is, however, denied by the learned Assistant Government Pleader for Revenue. Both the learned counsel, however, submits that the petitioner is not in possession of the property.

It is true that the question whether the petitioner or his father brought the land into cultivation cannot be decided in these proceedings under Article 226 of the Constitution of India. The question has to be decided subject to production of evidence by the petitioner. Therefore, it would be in the interest of petitioner himself to approach the Mandal Revenue Officer himself and submit the explanation immediately to the show cause notice dated 04-02-2005. As and when such explanation is submitted, the same shall be considered by the Mandal Revenue Officer before passing any orders against the petitioner in relation to the assignment of Patta No.771 to the father of the petitioner for the land ad-measuring Ac.05-19 cents in survey No.130/2 of Madhuravada village, Vishakapatnam district. After submission of explanation by the petitioner, the Mandal Revenue Officer shall pass orders within a period of four weeks from the date of submission of such explanation.

The writ petition, with the above observations and directions, is disposed of. No costs.

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V.V.S. RAO, J

15-12-2005

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